

PETITION FOR ZONING VARIANCE 84-31-A TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.2b(3) - "to allow 64 spaces in lieu of the required 71; and from Section 413.2(f) - "to allow total area of 136 square feet in lieu of the permitted 100 sq. feet. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

- 1) That not to allow the variance would be hardship in that the Petitioner is putting in a drive-in facility in order to compete with the market and that the drive-in facility will take up the seven spaces that would otherwise be required, but as a result, there would be no increase in personnel and there will be a decrease in the use of the restaurant facilities.
- 2) That the practical difficulty is that there will be a decline in the use of the restaurant facilities as a result of the drive-in being utilized and therefore the parking spaces eliminated will not be needed by the public due to the large percentage using the drive-in. Property is to be posted and advertised as prescribed by Zoning Regulations facilities only.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Lessee
Edgewood Corporation
By: James J. Dresher, Jr.
(Type or Print Name)
Signature
8655 Pulaski Highway
Address
Baltimore, Maryland 21237
City and State
Attorney for Petitioner:
Robert J. Romadka, Esquire
John O. Hennegan, Esquire
(Type or Print Name)
Signature
2066 Lord Baltimore Dr. 298-2600
Address
Baltimore, Maryland 21207
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Robert J. Romadka/John O. Hennegan
Name
809 Eastern Boulevard
Baltimore, Maryland 21221/ 686-8274
Address
Attorney's Telephone No.: 686-8274
City and State

ORDERED By The Zoning Commissioner of Baltimore County, this 16th day of June, 1983, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 28th day of July, 1983, at 11:15 o'clock A.M.
RESCHEDULED:
Wednesday, August 31, 1983
at 1:30 P.M.
Zoning Commissioner of Baltimore County.

(over)

Robert J. Romadka, Esquire
John O. Hennegan, Esquire
809 Eastern Boulevard
Baltimore, Md. 21221

Frank Lee
1277 Neighbors Ave
Baltimore, Md. 21237

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 16th day of June, 1983.

Petitioner Leroy Merritt
Petitioner's Attorney Romadka/Hennegan, Esq.

Received by: Nicholas B. Commodari
Zoning Commissioner
Chairman, Zoning Plans Advisory Committee

RE: 8655 Pulaski Highway - Edgewood Corporation

3. That the present site is not large enough to both physically accommodate a drive-in facility and the required number of parking spaces; that there is no adjacent land available to allow for this expansion and therefore the petitioner must eliminate 7 parking spaces in order to construct the drive-in facility.

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER
SE/S of Pulaski Hwy., 1,330' : OF BALTIMORE COUNTY
N of Centerline of Baltimore :
Beltway, 15th District :
LEROY MERRITT, Petitioner : Case No. 84-31-A

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 13th day of July, 1983, a copy of the foregoing Order was mailed to Robert J. Romadka, Esquire and John O. Hennegan, Esquire, 809 Eastern Boulevard, Baltimore, MD 21221, Attorneys for Petitioner; and Mr. James T. Dresher, Jr., Edgewood Corporation, 8655 Pulaski Highway, Baltimore, MD 21237, Lessee.

John W. Hession, III
John W. Hession, III

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hammond
Zoning Commissioner
Date: July 21, 1983
FROM: Norman E. Gerber, Director
Office of Planning and Zoning
SUBJECT: Leroy Merritt
84-31-A

There are no comprehensive planning factors requiring comment on this petition.

Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:cav

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

August 19, 1983

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

cc: Nicholas B. Commodari
Chairman

MEMBERS

Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Zoning Administration
Board of Education
Industrial Development

Robert J. Romadka, Esquire
John O. Hennegan, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Item No. 223 - Case No. 84-31-A
Petitioner - Leroy Merritt
Variance Petition

Gentlemen:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: Frank Lee
1277 Neighbors Avenue
Baltimore, Md. 21237



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

June 2, 1983

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #223 (1982-1983)
Property Owner: Leroy Merritt
S/BS Pulaski Hwy., 1330' N/E from centerline
of Baltimore County Beltway
Acres: 40,250 sq. ft. District: 15th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Pulaski Highway (U.S. 40) is a State Road; therefore, all improvements, intersections, entrances and drainage requirements as they affect the road come under the jurisdiction of the Maryland State Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Baltimore County highway and utility improvements exist and are not directly involved.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 223 (1982-1983).

Very truly yours,

ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RMH:EDM:FWR:ss

I-W Key Sheet
14 NB 25 Pos. Sheet
NB 4 G Topo
90 Tax Map

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit



Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary
M. S. Caltrider
Administrator

April 27, 1983

Mr. William Hammond
Zoning Commissioner
County Office Bldg.
Towson, Maryland 21204

Attention: Mr. N. Commodari

Re: ZAC Meeting of 5-3-83
ITEM: #223
Property Owner: Leroy Merritt
Location: SE/S Pulaski Highway
Route 40-E, 1330' N/E from
centerline of Baltimore County
Beltway
Existing Zoning: B.R.
Proposed Zoning: Variance to
permit 64 parking spaces in lieu
of the required 71 spaces and to
allow business signs to have a
total area of 152 sq. ft. in
lieu of the required 100 sq. ft.
Acres: 40,250 sq. ft.
District: 15th

Dear Mr. Hammond:

On review of the site plan of 2-4-83 and field inspection, the State Highway Administration offers the following comments.

The plan shows stacking of seven (7) vehicles in back of the proposed drive thru booth, the State Highway Administration Bureau of Engineering Access Permits recommends the count begin at the Menu Board Speaker with no restrictions to access or circulation at the site.

Very truly yours,
Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

CL:GW:maw

By: George Wittman

cc: Mr. J. Ogle

My telephone number is (301) 659-1350
Teletypewriter for Impaired Hearing or Speech
363-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
P.O. Box 1171 707 North Calvert St., Baltimore, Maryland 21203 - 0717



**BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING**
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

July 12, 1983

Mr. William Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. (223) 224, 225, and 226. ZAC Meeting of May 3, 1983
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Hammond:

The Department of Traffic Engineering has no comments for item numbers 223, 224, 225, and 226.

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/ccm

19 MAY 83
Date

BALTIMORE COUNTY DEPARTMENT OF HEALTH

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 223, Zoning Advisory Committee Meeting of 3 May 83

Property Owner: Leroy Merritt

Location: SE/S Pulaski Hwy District: 15th

Water Supply: Public Sewage Disposal: Public

COMMENTS ARE AS FOLLOWS:

- (✓) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.
- () Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.
- () A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appliances pertaining to health and safety, two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

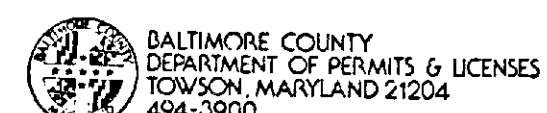
SS 20 1082 (1)

Zoning Item # 223
Page 2

- () Any existing underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled.
- () Soil percolation tests have been conducted.
 - () The results are valid until _____
 - () Revised plans must be submitted prior to approval of the percolation tests.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test shall be valid until _____
 - () is not acceptable and must be retested. This must be accomplished prior to conveyance of property or approval of Building Permit Applications.
- () All roads and parking areas should be surfaced with a dustless, bonding material.
- (✓) No health hazards are anticipated.
- () Others _____

Ian J. Portney
Ian J. Portney, Director
BUREAU OF ENVIRONMENTAL SERVICES

PS 20 1080 (2)



**BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES**
TOWSON, MARYLAND 21204
494-3900

TED ZALESKI JR.
DIRECTOR
Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

May 17, 1983

Dear Mr. Hammond:

Comments on Item # 223 Zoning Advisory Committee Meeting May 3, 1983 are as follows:

Property Owner: Leroy Merritt
Location: SE/S Pulaski Hwy, 1330' N/E from centerline of Balto. Co. Beltway
Existing Zoning: B.R.
Proposed Zoning: Variance to permit 64 parking spaces in lieu of the required 71 spaces & to allow business signs to have a total area of 152 sq.ft. in lieu of the required 100 sq. ft.

Acres: 40,250 sq.ft.
District: 15th

The items checked below are applicable:

- ✓ A. All structure shall conform to the Baltimore County Building Code 1983/ Council Bill 1-82 State of Maryland Code for the Handicapped and Aids and other applicable Codes.
- ✓ B. A building and other miscellaneous permits shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.
- ✓ D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. An exterior wall erected within 6'0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'-0" of lot lines. A firewall is required if construction is on the lot line. See Table 101, Line 2, Section 1107 and Table 1102.
- F. Requested variances comply with the Baltimore County Building Code, Section/s _____
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed, comply with the height/area requirements of Table 505 and the required construction classification of Table 101.
- ✓ I. Comments: Show H.C. parking sign for each space, show ramps at front of cars to sidewalk, show curb cuts.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., 21204.

Charles E. Burnham
Charles E. Burnham, Chief
Plans Review

CEB/rvj
FORM 01-82

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland - 21204

Date: May 3, 1983

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No: 223, 224, 225, 226
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no bearing on student population.

Very truly yours,
Wm. Nick Petrovich
Wm. Nick Petrovich, Assistant
Department of Planning

NNP/bp

September 6, 1983

Robert J. Romacka, Esquire and
John O. Hennegan, Esquire
Germania Federal Building
809 Eastern Boulevard
Baltimore, Maryland 21221

IN RE: Petition Zoning Variances
SE/S of Pulaski Hwy., 1,330' N of
centerline of Baltimore Beltway -
15th Election District
Leroy Merritt, Petitioner
Case No. 84-31-A

Gentlemen:

I have this date passed my Order in the above referenced matter in accordance with the attached.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

AJ/ar1

Attachments

cc: John W. Hessian, III, Esquire
People's Counsel

84-31-A
8-19-83

LAW FIRM
Roma, Parnham, Hennegan & Fox
GERMANIA FEDERAL BUILDING
809 EASTERN BOULEVARD
TOWSON, MARYLAND 21204
TELEPHONE (410) 581-5274

August 29, 1983

OFFICE OF PLANNING AND ZONING
111 West Chesapeake Avenue
Towson, Maryland 21204

Attention: Mr. Arnold Jablon
Zoning Commissioner

Reference: Case Number 84-31-A, Zoning Variance
Leroy Merritt, Petitioners
8655 Pulaski Highway - McDonald's

Dear Mr. Jablon:

Please be advised that the above referenced matter was scheduled for a hearing on July 28, 1983. Through some inadvertence by the Zoning Office, this case was postponed without our consent, and as a result, had to be readvertised for the upcoming hearing. It was our understanding that the case on July 28, 1983 was to go forward and that at the end of the hearing, was to be continued on a date agreed upon between the protestants and the petitioners for developing further testimony. Therefore, it is my understanding that we are not responsible for the additional advertising costs incurred as a result of having to readvertise and respost for the hearing which is scheduled for August 31, 1983.

Would you please look into this matter and please advise me as to your position.

Very truly yours,
John O. Hennegan
John O. Hennegan

JOH/dlw
cc: Mr. James T. Dresher, Jr.

PETITION FOR VARIANCES
15th Election District

ZONING: Petition for Variances

LOCATION: Southeast side of Pulaski Hwy., 1,330 ft. North of the centerline of the Baltimore Beltway

DATE & TIME: Wednesday, August 31, 1983 at 1:30 P.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variances to allow 64 space in lieu of the required 71 and to allow total area of 136 sq. ft. in lieu of the permitted 100 sq. ft.

The Zoning Regulation to be excepted:
Section 409.2b(3) - parking requirements for a restaurant
Section 413.2(f) - maximum allowed signage in business zone

All that parcel of land in the Fifteenth District of Baltimore County

Being the property of Leroy Merritt, as shown on plat plan filed with the Zoning Department.

Hearing Date: Wednesday, August 31, 1983 at 1:30 P.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Phone: 687-6922

FRANK S. LEE
Registered Land Surveyor
1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

February 2, 1983 REVISED 4/20/83

McDonald's Restaurant
8655 Pulaski Highway
15th District Baltimore County, Maryland

Beginning for the same on the southeast side of Pulaski Highway at the distance of 1330 feet more or less measured along the southeast side of Pulaski Highway north from the center line of the Baltimore County Beltway, thence running and binding on the southeast side of Pulaski Highway North 44 degrees 51 minutes 27 seconds East 230 feet, thence leaving Pulaski Highway for three lines of division as follows: South 45 degrees 00 minutes 01 second East 175 feet, South 44 degrees 55 minutes 27 seconds West 230 feet and North 45 degrees 00 minutes 01 second West 175 feet to the place of beginning.

Containing 40,250 square feet of land.

MAY 3 1983
Item # 223
REVISED PLAN



JOSEPH J. ROMAACKA
ATTORNEY AT LAW
809 EASTERN BOULEVARD
TOWSON, MARYLAND 21204

APRIL 12, 1983

OFFICE OF PLANNING & ZONING
111 West Chesapeake Avenue
Towson, Maryland 21204

Attention: Mr. William Hammond
Zoning Commissioner

Reference: McDonald's Restaurant
8655 Pulaski Highway - Zoning Variance

Dear Mr. Hammond:

Enclosed you will find a check in the amount of \$100.00 for filing the Petition for Zoning Variance in the above matter. Also enclosed are four originals of the Petition, seven copies of the description, and ten plats of the lot. If there are any questions, please do not hesitate to contact me.

Very truly yours,
Robert J. Romaacka
Robert J. Romaacka

RJR/dlw
Enclosure
cc: Mr. James T. Dresher, Jr.

IN RE: PETITION ZONING VARIANCES
S2/3 OF PULASKI HWY., 1330'
N OF CENTERLINE OF BALTIMORE
BELTWAY - 15th District
Leroy Merritt,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-31-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner by its Lessee, the Edgewood Corporation, requests variances to permit 64 parking spaces in lieu of the required 71 and to permit a total of 136 square feet instead of the permitted 100 square feet of total sign space on the property.

The Lessee appeared with counsel and testified. Also testifying on its behalf was the area operations manager for McDonald's Restaurant. No Protestants appeared.

Testimony indicated, and was uncontested, that the Lessee's request to reduce the number of parking spaces required from 71 to 64 was based on its desire to add a drive-through window for its customers who use the McDonald's Restaurant it operates on the Petitioner's property. Testimony indicated that approximately 40% of its current customers would use the drive-through and that the addition would allow for expansion of its current business. Without the drive-through, it would be expected that there would be no increase in business or a decrease. The Lessee testified that its direct competition in the area, i.e., other "fast food" outlets, all have drive-through operations. Testimony by Mr. Hedges, the area operations manager for McDonald's, supported the contention that an average of 42%

of an outlet's customers would use the drive-through, and that in his area of supervision, which involves the supervision of approximately 20 stores, the percentage of customers who utilize the drive-through range from a low of 37% to a high of 52%. The cumulative testimony of the Lessee and its witness, Mr. Hedges, indicate that without the drive-through the business would suffer and customers would be lost. To the best of their knowledge, the competition in the area of the Lessee had built their restaurants with the drive-through included. The Lessee in order to build the drive-through would find it necessary to usurp 7 parking spaces that could not be relocated elsewhere on the property or off. Testimony was that there was no available property either to buy or to rent to provide parking. In other words, there is a finite amount of space available and there could not be any replacement of the usurped spaces.

However, testimony was presented that contended that the missing spaces would not be needed nor would they be missed. If 40% of its customers could be expected to use the drive-through, there would be a concomitant drop in the need for parking as it would be equally expected that these customers would literally drive in, through, and out without "parking interrupts". Testimony also indicated that even at the peak times of around lunchtime, 75% of the available parking spaces are being utilized. Therefore, a reduction of 7 spaces would in no way hinder or interfere with use of the facility or with the flow of traffic in any direction. If the drive-through was to be added, there would be a need to add signage notifying the public of the facility and the need to add a "menu sign" as well. Both of these signs, as more fully described on the site plan introduced as Petitioner's Exhibit 1, total 36 square feet (not as shown on the site plan, 52 square feet).

Petitioner seeks relief from Sections 409.2b.(3) and 413.2f., pursuant to Section 307, of the Baltimore County Zoning Regulations.

After due consideration of the testimony and evidence presented, it appears that there would be practical difficulty or unreasonable hardship resulting to the Petitioner if the instant variances were not to be granted.

There is a strong presumption of the correctness of original zones and of comprehensive zoning. See Howard County v. Dorsey, 438 A2d 1339 (1982). There is a presumption of validity that must be accepted. Johnson & Wales College v. DiPietro, 448 A2d 1271 (R.I. 1982). The County Council has seen it necessary to legislate the permitted uses in particular zones within the County, and one of the permitted uses in a BR zone is the right to have a restaurant, subject to certain conditions as found in the regulations. When interpreting the zoning regulations, the restrictive language contained therein must be strictly construed so as to allow the landowner the least restrictive use of his property. Lake Adventure, Inc. v. Zoning Hearing Bd. of Pimman Township, 440 A2d 1284 (Pa. 1982). When the language of a zoning regulation is clear and certain, there is nothing left for interpretation and the regulation must be interpreted literally. Mongony v. Revilacqua, 432 A2d 661 (R.I. 1981).

Therefore, Sections 409.2b.(3) and 413.2f. must be enforced as they are clear and certain as to their meaning and intent. The zoning regulations, however, permit variances, pursuant to certain conditions as delineated in Section 307. For the variances here requested to be granted, the variances must be judged under the "practical difficulties" or "unreasonable hardship" test, i.e., by looking to such factors as the nature of the use in which the property lies; the character of the immediate vicinity and the uses contained therein; whether, if the restrictions upon the Petitioner's property were removed, such removal would seriously

affect such neighboring property and user; whether, if the restrictions were not removed, the restrictions would create practical difficulty or unreasonable hardship for the owner in relation to his efforts to make normal improvements in the character of that use of the property which is permitted under the use provisions of the regulations.

A landowner can establish a right to a variance by showing that the effect of the regulation is to burden his property with an unreasonable hardship that is unique to his property. This can be accomplished by showing that the physical or topographical features of the property are such that the property cannot be used for a permitted purpose, or by showing that the property can be arranged for such use only at a prohibitive expense. See Anderson v. Bd. of Appeals of Town of Chesapeake Beach, 22 Md App 28 (1974); Marlowe v. Zoning Hearing Bd., Haverford Township, 415 A2d 946 (Pa. 1980).

After due consideration of all of the evidence presented and testimony given, it has been established that the requirements the Petitioner seeks relief from would unduly restrict their use of the land for an intended permitted purpose of adding a drive-through facility, and if such requirement to enforce the required parking spaces was to be enforced, conformance would be unnecessarily burdensome.

The lack of space, the unavailability of additional land, the existing petition, the lack of need for as many parking spaces as required by the regulations, mitigate in favor of granting the variance to allow 64 spaces instead of 71. The variance for the additional square feet needed for the additional two signs is granted for the same reasons. It would be unreasonable and a practical hardship to the Petitioner not to so grant. The spirit of the regulations will be observed and the public health,

ORDER RECEIVED FOR FILING

DATE *September 6, 1983*
BY *John P. Long*

ORDER RECEIVED FOR FILING

DATE *September 6, 1983*
BY *John P. Long*

ORDER RECEIVED FOR FILING

DATE *September 6, 1983*
BY *John P. Long*

ORDER RECEIVED FOR FILING

DATE *September 6, 1983*
BY *John P. Long*

safety, and general welfare secured if the variances were to be granted.
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons above given, the variances requested should be granted.

Therefore, it is ORDERED by the Zoning Commissioner of Baltimore County this 6th day of September, 1983, that the Petition for Variances to permit 64 parking spaces in lieu of the required 71 and to permit the Petitioner to have a total area of 130 square feet instead of the required 100 square feet for the three signs permitted be and is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The Petitioner may apply for its building permit, and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that its proceeding at this time is at its own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

[Signature]
Zoning Commissioner of
Baltimore County

Robert J. Romadka, Esquire
John O. Hennegan, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RESCHEDULED
NOTICE OF HEARING
Re: Petition for Variances
SE/S of Pulaski Hwy., 1,330' N of the
c/l of the Baltimore Beltway
Leroy Merritt - Petitioner
Case No. 84-31-A

TIME: 1:30 P.M.

DATE: Wednesday, August 31, 1983

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

[Signature]
Zoning Commissioner
of Baltimore County

Robert J. Romadka, Esquire
John O. Hennegan, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

NOTICE OF HEARING
Re: Petition for Variances
SE/S of Pulaski Hwy., 1,330' N of the
c/l of the Baltimore Beltway
Leroy Merritt - Petitioner
Case No. 84-31-A

TIME: 11:15 A.M.

DATE: Thursday, July 28, 1983

PLACE: Room 106 County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

[Signature]
Zoning Commissioner of
Baltimore County

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 117331

DATE: 8/15/83 ACCOUNT: R-01-615-000

AMOUNT: 150.00

RECEIVED FROM: James T. Dresher, Jr.
FOR: Advertising & M&M Posting Case #84-31-A
(Leroy Merritt)

C 045*****1000010 4102A

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JADON
ZONING COMMISSIONER

August 31, 1983

Robert J. Romadka, Esquire
John O. Hennegan, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

Re: Petition for Variances
SE/S Pulaski Hwy., 1,330' N of the
c/l of the Baltimore Beltway
Leroy Merritt - Petitioner
Case No. 84-31-A

Dear Sirs:

This is to advise you that \$58.90 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

[Signature]
OLD JADON
ng Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 121506

DATE: 8/31/83 ACCOUNT: R-01-615-000

AMOUNT: \$58.90

RECEIVED FROM: James T. Dresher, Jr.
FOR: Advertising & M&M Posting Case #84-31-A
(Leroy Merritt)

C 036*****585010 5012A

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15 Date of Posting: 7/9/83
Posted for: Petition for Variances
Petitioner: Leroy Merritt
Location of property: SE/S Pulaski Hwy., 1,330' N of
c/l of the Baltimore Beltway
Location of Signs: Front of Property, Offsetting Cul-de-sac
Remarks: None
Posted by: William M. Harkwood Date of return: 7/15/83
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15 Date of Posting: 8-8-83
Posted for: VARIANCE
Petitioner: Leroy Merritt
Location of property: SE/S Pulaski Hwy. 1330' N. of c/l of Beltway
Location of Signs: Front of Property, Left side of entrance
Remarks: None
Posted by: Carol A. Funder Date of return: 8-8-83
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., July 7, 1983.
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ~~on one time~~ on one time before the 28th day of July, 1983, the last publication appearing on the 7th day of July, 1983.

THE JEFFERSONIAN
[Signature]
Manager.

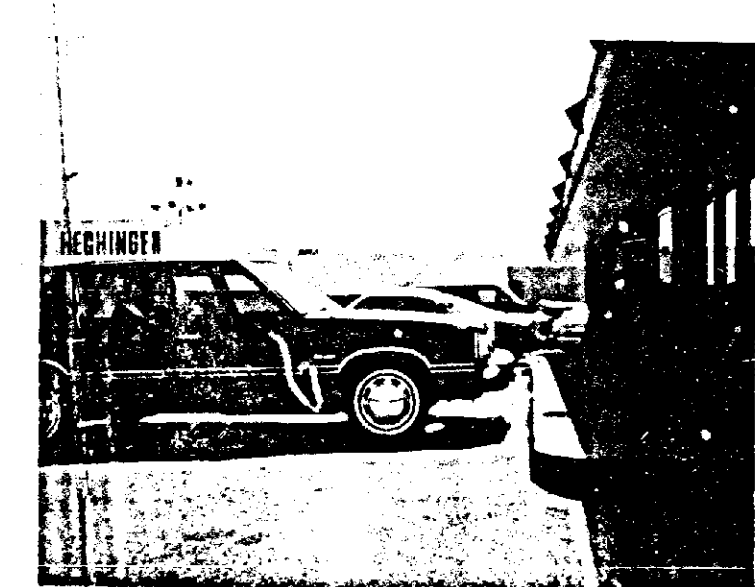
Cost of Advertisement: \$ 24.50

CERTIFICATE OF PUBLICATION

TOWSON, MD., August 11, 1983.
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ~~on one time~~ on one time before the 31st day of August, 1983, the last publication appearing on the 11th day of August, 1983.

THE JEFFERSONIAN
[Signature]
Manager.

Cost of Advertisement: \$ 24.50



Petition For
Variances

16th Election District
ZONING: Petition for
Variances.
LOCATION: Southwest side of Pulaski Hwy., 1,330' N of the centerline of the Baltimore Beltway.
DATE & TIME: Wednesday, August 31, 1983 at 1:30 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing to consider the petition for variances to allow 64 spaces in lieu of the required 71 and to allow a total area of 130 sq. ft. in lieu of the permitted 100 sq. ft.
The Zoning Regulations to be considered are: Section 408.03(b) - parking requirements for a restaurant.
Section 411.01 - maximum allowed signage in business zone.
All that parcel of land in the 16th Election District of Baltimore County, Maryland, containing 0.250 square feet of land, being the property of Leroy Merritt, as shown on plat filed with the Zoning Department, Hearing Date: Thursday, July 8, 1983 at 1:15 P.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.
By Order of
ARNOLD JADON,
Zoning Commissioner
of Baltimore County

The Times

Middle River, Md., August 19, 1983

This is to Certify, that the annexed

was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of one successive

weeks before the 28th day of

July, 1983

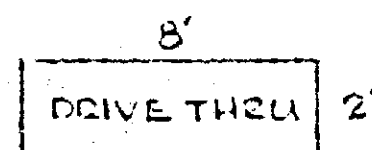
[Signature] Publisher.

EXISTING USE - RESTAURANT
PROPOSED USE - RESTAURANT AND FAST FOOD CARRY OUT
EXISTING ZONING - BR
PROPOSED ZONING - SAME
AREA OF LOT - 40,250 SQ. FT.
AREA OF EX. BLDG. - 3160-6033 SQ. FT.
AREA OF DRIVE THRU BOOTH - 60 SQ. FT.

NO. OF SPACES REQ. - ((1/50 SQ. FT.) (TOTAL BLDG = 3520.00 SQ. FT.) = 71 SPACES
NO. OF SPACES PROVIDED = 64 SPACES
VARIANCE = 7 SPACES



EXISTING SIGN
100 SQ. FT.
NO SCALE



PROP. SIGN - BOTH SIDES
32 SQ FT.

PROPOSED MENU BOARD
4'5" x 20'50" FT.
NO SCALE

EXISTING SIGN = 100 SQ. FT.
PROPOSED SIGNS = 52 " "
TOTAL = 152 " "
VARIANCE = 52 SQ. FT.

PLAT TO ACCOMPANY PETITION PETITION FOR PARKING AND SIGN VARIANCE

PROPOSED FAST FOOD SERVICE FOR

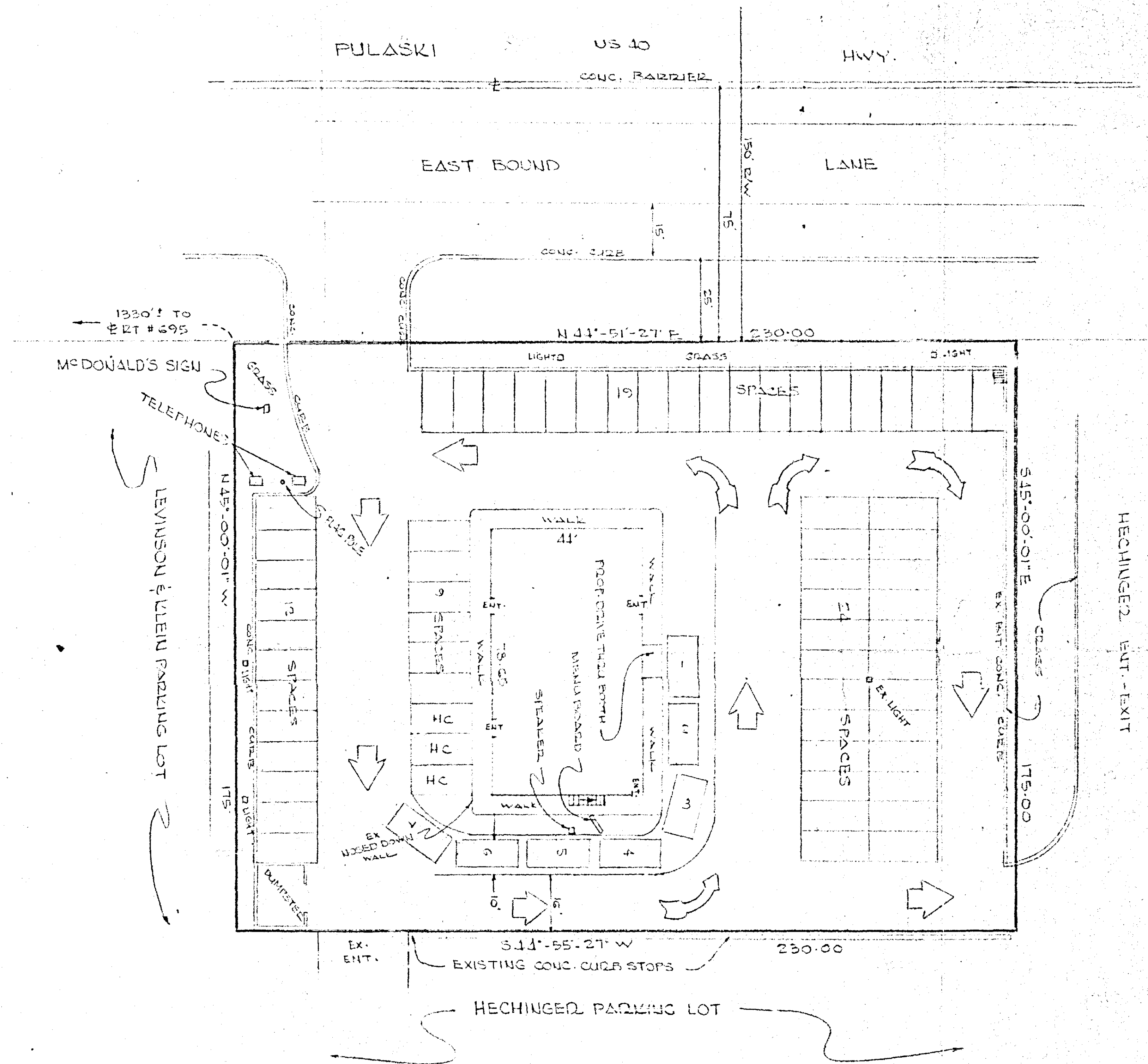
Mc DONALD'S

8655 PULASKI HWY.
15TH DISTRICT BALTIMORE CO, MARYLAND
SCALE: 1" = 20' DATE: 2-4-82

• MANAGER
JIM DRESHER
8055 PULASKI HWY.
BALTO., MD. 21237
391-5582 879-0981

ATTORNEY
ROBERT DOMADRA
809 EASTERN BLVD
BALTO., MD. 21221
486-3274

FRANK P. LEE
1071 N. 10th St. Apt. 101
Tulsa, Okla. 74104
681-6722



LOCATION MAP
Scale 1" = 1000'

Item #223

• MANAGER
JIM DRESHER
8655 PULASKI HWY.
BALTO., MD. 21237
391-5582 879-0901

ATTORNEY
ROBERT DOMADRA
809 EASTERN BLVD
BALTO., MD. 21221
486-3274

480-3274

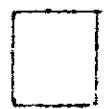
FRANK P. LEE
1071 N. 10th St. Apt. 101
Tulsa, Okla. 74103
681-6722

EXISTING ONE - EXISTING ADJUT
PROPOSED ONE - EXISTING ADJUT AND EXIST FOUR EXIST OUT
EXISTING ONE - ONE
PROPOSED ONE - ONE
AREA OF LOT - 10,000 SQ. FT.
AREA OF LOT - 10,000 SQ. FT.
AREA OF LOT - 10,000 SQ. FT.
AREA OF LOT - 10,000 SQ. FT.

$$\frac{\text{No. OF SPACES REQ. } -(1/80 \text{ IN. FT.})}{\text{No. OF SPACES PROVIDED}} \left(\text{TOTAL BURG.} = 3520.30 \text{ IN. FT.} \right) = 7 \text{ SPACES}$$

$$\text{VARIANCE} = 4 \text{ SPACES}$$


EXISTING SIGN
100 SQ. FT.
NO SCALE



PROPOSED MENU BOARD
4'6" x 20'30" FT.
NO SCALE

EXISTING SIGN = 100 SQ. FT.
PROPOSED SIGNS = 52 " "
TOTAL = 152 " "
VARIANCE = 12 SQ. FT.

PLAT TO ACCOMPANY PETITION FOR PARKING AND SIGN VARIANCE

PROPOSED FAST FOOD SERVICE FOR

Mc DONALD'S

8655 PULASKI HWY.
15TH DISTRICT BALTIMORE CO., MARYLAND

SCALE: 1" = 20' DATE: 2-4-83
REVISED 6-28-83

**PETITIONER'S
EXHIBIT 1**

MANAGER
JIM DOESHER
8055 PULASKI HWY.
EASTO, MD. 21237
391-5882 879-0981

ATTORNEY
ROBERT ROMACKA
809 EASTERN BLVD.
BALTO., MD. 21221
685-8274

FRANK S. LEE
117 MONROE AVE.
BALTIMORE MD. 11237
687-6922

